

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANKIE WEISNER,

Petitioner,

v.

KATHLEEN ALLISON,

Respondent.

No. 2:23-cv-0662 DAD AC P

ORDER

Petitioner is a state prisoner proceeding pro se with a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. On June 23, 2023, respondent filed a motion to dismiss the petition. ECF No. 14. After petitioner twice failed to respond to the motion, the undersigned recommended that this action be dismissed for failure to prosecute. ECF No. 20. Petitioner then filed a motion for an extension of time to respond to the motion to dismiss (ECF No. 22) and the findings and recommendations were withdrawn (ECF No. 23). Because it was unclear if petitioner had received a copy of the motion to dismiss, respondent was ordered to re-serve the motion and petitioner was given thirty days to respond. *Id.* Respondent re-served the motion on January 23, 2024. ECF No. 24. Thirty days have now passed and petitioner has not responded to the motion. Good cause appearing, petitioner will be given one final opportunity to respond to the motion to dismiss. Failure to comply with this order will result in the dismissal without prejudice of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

1 Accordingly, IT IS HEREBY ORDERED that, within twenty-one days after the filing
2 date of this order, petitioner shall file and serve an opposition or statement of non-opposition to
3 the pending motion to dismiss. Failure to do so will result in a recommendation that this action
4 be dismissed without further warning.

5 DATED: March 11, 2024

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7 ALLISON CLAIRE
8 UNITED STATES MAGISTRATE JUDGE

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